

MINUTES

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES

**Wednesday, September 21, 2005
10:00 AM
Room 643, Legislative Office Building**

The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services met on Wednesday, September 21, 2005, at 10:00 A.M. in Room 643 of the Legislative Office Building. Members present were Senator Martin Nesbitt, Co-Chair; Representative Verla Insko, Co-Chair; Senators Austin Allran, Jeanne Lucas, and William Purcell and Representatives Jeffrey Barnhart, Beverly Earle, and Bob England.

Kory Goldsmith, Lisa Hollowell, Ben Popkin, Shawn Parker and Rennie Hobby provided staff support to the meeting. Attached is the Visitor Registration Sheet that is made a part of the minutes. (See Attachment No. 1)

Representative Verla Insko, Co-Chair, called the meeting to order and welcomed members and guests. She welcomed Representative England to the committee and said that Representative Steen had also been appointed. An orientation for new members will be held once the Senate has made their appointments. Senator Nesbitt said that solutions to the problems of reform would be the focus of the committee during the interim in order to continue to move forward.

Representative Insko asked for a motion for the approval of the minutes from the January 18th meeting. Representative Barnhart made the motion and the minutes were approved.

Kory Goldsmith from Research and Lisa Hollowell from Fiscal Research presented an overview of goals of mental health reform in North Carolina. (See Attachment No. 2) Ms. Goldsmith began with an historical context to help frame issues of current interest on the state and local levels and in the Legislature. In response to issues raised at the State and Federal level, the General Assembly commissioned studies and based on those findings and recommendations, House Bill 381 - the Mental Health System Reform Bill, was enacted. She explained that prior to reform, area programs were responsible for service delivery and service management but the reform legislation and State Plan separated these responsibilities.

Ms. Goldsmith identified the role of the LME in managing services. On the county level, referencing the issue of accountability, she detailed the responsibilities of the counties who are required to develop business plans for implementing and operating the community system. She then explained that G.S. 122C-102 requires that the State Plan provide uniform service standards and promotion of best practices. The rationale behind the new service array is that it would be science-based and create one seamless set of definitions for services reimbursed by Medicaid and State funds. This reflects an attempt

to draw down more Federal funds freeing State dollars to be used for non-Medicaid eligible populations.

Ms. Hollowell explained the purpose and uses of the MHDDSAS Trust Fund and gave the total appropriations since FY 2000-2001 with adjustments and expenditures, reflecting a deficit of \$7.5 million by the end of 2006.

Continuing, Ms. Goldsmith explained that accountability was a primary goal of reform. She reviewed the responsibilities at all levels including the Legislative Oversight Committee on MHDDSAS, the Department of DHHS/Division of MHDDSAS, the County level, LMEs, and Consumer and Family Advisory Committees (CFACs). She noted that an LME could not be certified by the State unless there is a CFACs in place and functioning. The CFACs review the local business plan and serve as the eyes and ears of the service system at the local level.

Regarding the downsizing of state institutions, Ms. Hollowell said that the State responded to the US Supreme Court Decision and the State Auditor's Report with the goal of having an adequate number of beds in state institutions as well as adequate community capacity for alternative services. She said the idea was to shift funding from state institutions into the community as downsizing occurred. She then reviewed a chart showing a total of 414 beds in the State's psychiatric hospitals closed to date.

Continuing, Ms. Hollowell said that consolidation continues with 33 Area Programs/LMEs in place as of July 1, 2005, down from 40 Area Programs in 2001. She said that 29 LMEs were planned through voluntary consolidation by July 2006.

Senator Lucas requested additional information on the exact expenditures of the Trust Fund. She was told that the Department had released a report on those expenditures that would be shared with the full committee.

Representative Earle asked for an explanation of the apparent deficit of \$7.5 million for the Trust Fund. Leza Wainwright, Deputy Director of the Division of MHDDSAS, explained that the figures provided by the Division reflect future commitments that would be covered by downsizing dollars and other future appropriations. Representative Earle requested a copy of a chart showing the number of beds still open at the State institutions.

Representative Insko asked if there was a plan for the \$10 million appropriated to the Trust Fund this year. Ms. Wainwright said that there was a special provision plan required by the General Assembly that would be finalized at the end of September.

Representative England asked if there was a specific date in H.B. 381 to conclude consolidation and if there was a plan to accomplish that goal and the projected cost involved. Ms. Hollowell said that the deadline was July 2007. The Department submitted a plan to the committee in February stating that programs reaching their goals through consolidation would number 24 and not the goal of 20 area authorities since it was a voluntary process.

Senator Nesbitt and Representative Earle questioned the funding inequities limiting services. Mike Moseley, Director of the Division of MHDDSAS, stated that the report

due to the Committee in March 2006 would clarify the strategy of how the Department should move forward regarding funding strategies for service dollars.

Regarding the Trust Fund, Representative Insko asked for information so the Committee can determine whether dollars are going to the priorities originally established. She requested a chart showing the downsizing of all facilities including the DD facilities. She also requested some targets for downsizing state institutions and she asked if beds had increased since admissions had increased.

Representative Insko asked Leza Wainwright to give an update on activities since the last committee meeting on January 18, 2005. (See Attachment No. 3) Ms. Wainwright said that while moving toward evidence based best practices and working towards modifying the service array, one of the first changes implemented was the expansion of the numbers of licensed individuals that deliver outpatient therapy. The Appropriations Bill of 2004 allowed Medicaid to expand the number of practitioners and allowed them to directly enroll in the Medicaid Program. Ms. Wainwright also said the new service definitions were submitted to the Centers for Medicaid and Medicare Services (CMS) in May, and they are currently under review. She said the Division would not set an implementation date until the service definitions were approved by CMS. Other Medicaid State Plans in process included a State Plan amendment to target case management for DD and a State Plan amendment to be submitted to CMS in October to revise service definitions for residential services for children.

Ms. Wainwright said that CMS approved the Community Alternatives Program – CAP-MR/DD waiver on September 1, and the Department implemented it the same day. She said the Division was currently working on a self-directed waiver for persons with DD that, after review, would be implemented July 2006. She explained that the Division with DFS had reviewed all licensed providers of child residential services Levels II and III. The Division recommended rules for group homes that were approved by the Commission in May. The Rules Review Commission must now approve the rules pending a fiscal evaluation.

Continuing, Ms. Wainwright said that one of the changes to the service delivery system, pending the approval of the State Medicaid Plan amendment, would allow providers to directly enroll in Medicaid. This should increase access for consumers. Providers would also be endorsed by an LME prior to enrollment using standardized processes. She also said that the Division had held three statewide training sessions for providers and LMEs. She said the Division and DMA had met with providers to access the new rates of the new services to ensure that they were fair and adequate and surveys had been sent to providers asking for input on the challenges and opportunities facing them. Information gathered would be used for training.

In the area of institutional services, Ms. Wainwright said the projected number of beds to be closed by June 30, 2005 was 600 but instead there were 414 beds closed by that date. Downsizing did not occur due to an increase in acute adult admissions beds and children's beds. Other hospital updates included the groundbreaking of the new hospital at Butner in April with the selection of Dr. Patsy Christian as Director; Dr. Jim Osberg will replace Dr. Terry Stelle who is retiring at Dorothea Dix Hospital; and the recruitment

of new directors for Cherry and Umstead. She stated that the Deaf Unit would relocate to Broughton Hospital. Ms. Wainwright also said that a response to a Request for Information had led to 34 consumers being placed in the community from State Developmental Centers. The implementation of the new waiver should help that movement. She also announced leadership changes in the centers. In the Alcohol and Drug Abuse Centers, she said the mission had been modified to serve the more acute population in the community. She also reviewed other changes in institutions.

Next, Ms. Wainwright reviewed the Mental Health Trust Fund expenditures for the year and told the group that an Advisory Organization database had been created to improve the ability to receive input from consumers, family members and advocacy groups.

Representative Earle asked why the Budget Office was looking at the rules for child residential services and asked who had made the request. Ms. Wainwright answered that two providers had made the request and that the Budget Office must look at the cost of the old rules compared to the cost of the new rules and if there is a difference of \$3 million or more the rules must be reposted with a note that they have a significant fiscal impact. Representative Earle also asked the Division what some of the problems and issues are with reform. Mr. Moseley listed three problem areas that included provider capacity, funding of the system, and the delay in getting services in place.

Senator Purcell asked if it was a realistic goal to have services in the private sector. Mr. Moseley said the system is not even across North Carolina and that certain areas would continue to have problems bringing up private provider capacity. He said they were working with the LMEs.

Senator Nesbitt said the missing piece preventing the LOC from helping with the funding issue is the delay in approval of the new service definitions and the accompanying fees. Until we have this information, it is impossible to know the funding requirements of the new system. He expressed concern over developmental day care services being eliminated in his area. Mr. Moseley said he would look into the situation and get more information.

Regarding child residential services, Representative Insko asked if there had been a plan in place for increases in staffing at the time of the rate increase that justified that increase. She also asked whether the new rules required improvements over and above the original package. Mr. Moseley said that though the current leadership was not in place at the time that reform evolved, it was his understanding that the increased rate issue was in response to some increased requirements that were never implemented. Representative Insko asked how would one know that the old rates did not cover everything that needed to be done. Mr. Moseley said that the internal auditor for the Department published a report addressing this specific issue and would get a copy to the committee.

Representative Insko then asked Stakeholders, who had previously signed-up to come forward and provide the Committee with their comments. Consumer and family members were: Betty Stansberry, DD; Louise Fisher, MH and Jeff McLoud, MH. Those speaking for the LMEs were: Grayce Crockett, Mecklenburg; Joy Futrell, Rowan/Chowan and Tom McDevitt, Smokey Mountain. Patrice Roesler spoke for the

County Commissioners. John Tote, MH Association of N.C. and Dave Richard, ARC of N.C., spoke for Advocates. Providers were: Sarah Wiltgen, Brynn Marr Behavioral Healthcare; Trish Hussy, Freedom House; Jill Keel, Autism Society of N.C.; Robin Huffman, N.C. Psychological Association; Suzie Kennedy, Life Enrichment Center of Cleveland County; and Toni Camp, RN, Life Enrichment Center of Cleveland County. Dan Herr, CFAC and Bob Hedrick, Providers Council, had handouts but did not address the group.

Speakers were asked to address positive aspects of reform and challenges to reform. Syntheses of the comments were: positive aspects – greater awareness by the public to the service needs of mh/dd/sa population; movement from institutions to community; System of Care Model and Evidence Based Practices more likely to be considered; role of consumers and family has had a positive impact on reform; CAP/MRDD waiver benefits. Challenges or concerns expressed were: inadequate services in the community; management of reform; funding; lack of representation of families and consumers at decision-making level; lack of crisis centers; target/non-target populations; children with mental health issues and acclimating patients from institutions into the community.

Senator Nesbitt asked staff to pull together comments made from stakeholders to determine exactly what the problems are in order to see what needs to be done.

Representative Barnhart suggested that a means be developed to monitor issues, identify problems, and track responses. He felt it would be helpful to the Committee to characterize how large the problem is, who is responsible, and to establish a target date to resolve those issues.

Senator Allran asked who was originally responsible for pushing the reform effort. Representative Insko said the General Assembly requested several studies with the last one being done by the State Auditor who made recommendations resulting in the creation of the Oversight Committee which proposed the reform plan. He also asked what had been accomplished if there was a lack of services and a lack of money in areas. Representative Insko said that one of the goals during the interim was to look at those issues and make sure that we do not have a weaker system than we had before reform. She said that the committee should make sure that proposals for change are reasonable given the state's ability to implement and pay for them and the state.

The meeting adjourned at 12:55 PM.

Senator Martin Nesbitt, Co-Chair

Representative Verla Insko, Co-Chair

Rennie Hobby, Committee Assistant